

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

April 25, 2001

DIVISION ONE

Court convened at 9:00 A.M.

Present: Ortega, Acting P.J., Vogel (Miriam A.), J., Mallano, J. and Connie Hon, Deputy Clerk.

B139478 Lutz et al. v. California Fair Plan et al.

Argument waived, cause submitted.

B141503 In re Marriage of Armato
Armato
v.
Stewart-Armato

Merits:

Argued by Thomas Paine Dunlap for appellant and by Bruce David Abel for respondent. Counsel waive the presence of Presiding Justice Spencer. Cause submitted.

B137375 Gregory
v.
Van Winkle

Merits:

No appearances by counsel. Cause submitted.

DIVISION ONE (Continued)

B137642 Hikin
 v.
 Trask

Merits:

Argued by Daniel P. Barer for appellant. No appearance for respondent.
Counsel waive the presence of Presiding Justice Spencer. Cause submitted.

B139873 Stephens, as Executor, etc.
 v.
 Bleier & Cox et al.

Merits:

Argued by Jon E. Drucker for appellant and by Jonathan B. Cole for
respondents. Counsel waive the presence of Presiding Justice Spencer.
Cause submitted.

Mallano, J. leaves the bench.

B142941 Black
 v.
 Murdock

Merits:

Argued by R. Michael Collum for appellant and by Matthew A. Hodel for
respondent. Counsel waive the presence of Presiding Justice Spencer.
Cause submitted.

Mallano, J. returns to the bench.

DIVISION ONE (Continued)

Vogel (Miriam A.), J. leaves the bench.

B133570 Fairchild et al.
 v.
 Park

Merits:

Argued by Barbara Ravitz for appellant Park and by Arthur T. Schaertel for appellants Fairchild et al. Counsel waive the presence of Presiding Justice Spencer. Cause submitted.

Vogel (Miriam A.), J. returns to the bench.

B140674 Szyszkowski et al.
 v.
 Truck Insurance Exchange

Merits:

Argued by Neil C. Newson for appellants and by Patricia Lofton for respondent. Cause submitted.

Ortega, Acting P.J. leaves the bench.

B133832 Patterson
 v.
 California Sports, Inc., et al.

Merits:

Argued by David Cohn for appellant and by Roy G. Weatherup for respondents. Counsel waive the presence of Presiding Justice Spencer. Cause submitted.

DIVISION ONE (Continued)

B136160 In re Marriage of Duffy
 Patricia Duffy
 v.
 Vincent Duffy

Merits:

Argued by Bruce Adelstein for appellant Vincent Duffy and by Honey Kessler Amado for respondent Patricia Duffy. Counsel waive the presence of Presiding Justice Spencer. Cause submitted.

B143132 Bradley
 v.
 County Of Ventura

Merits:

Argued by Paul M. Mahony for appellant and by Kirk E. Watson, deputy county counsel for respondent. Counsel waive the presence of Presiding Justice Spencer. Cause submitted.

B124989 Stockton-Campbell et al.
 v.
 Nash et al.

Merits:

Argued by Michael N. Sofris for appellants and by Michael C. Smith for respondents. Counsel waive the presence of Presiding Justice Spencer. Cause submitted.

B136114 Funston
 v.
 Hollywood Park, Inc.

Merits:

Argued by Larry W. Steinberg for appellant and by J. Alan Warfield for respondent. Counsel waive the presence of Presiding Justice Spencer. Cause submitted.

Court adjourned at 12:07 P.M.

DIVISION TWO

B136675 R.S. Wenders (Not for Publication)
 v.
 Carroll Cartwright

The judgment is affirmed. Respondent(s) to recover costs.

Cooper, J.

We concur: Boren, P.J.
 Nott, J.

B137378 Mohamed Al Fayed (Not for Publication)
 v.
 Keith Fleer et al.

The orders of dismissal are reversed, with directions to overrule defendant Fleer's demurrer to the fifth cause of action in the original complaint and defendants Williamson and McMillan's demurrers to the fifth cause of action in the first amended complaint. The parties shall bear their own costs.

Cooper, J.

I concur: Boren, P.J.
I concur & dissent: Todd, J. (Opinion)

B139419 People (Not for Publication)
 v.
 Marcus Leon Johnson

The judgment is affirmed.

Cooper, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION THREE

B136722 People (Not for Publication)
v.
Wood

The judgment is affirmed.

Aldrich, J.

We concur: Kitching, Acting P.J.
 Fidler, J. (Assigned)

B138911 People (Not for Publication)
v.
Miranda

The judgment is affirmed.

Aldrich, J.

We concur: Kitching, Acting P.J.
 Fidler, J. (Assigned)

B139309 Mia Tabares
v.
The Daily News et al.

Filed order denying petition for rehearing.

B136126 Margye Niehouse
v.
Malcolm Valentine

Filed order denying petition for rehearing.

DIVISION THREE (Continued)

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The judgment is modified as follows: the prison terms for the firearm use enhancements under section 12022.5, subdivision (a)(1), and section 12022.53, subdivision (b) and (c), are vacated, and imposition of those enhancement terms is hereby suspended. In all other respects, the judgment is affirmed.

Klein, P.J.

We concur: Aldrich, J.
Fidler, J. (Assigned)

B138219 People (Not for Publication)
B146409 v.
King

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B147317 Raquel Welch et al. (Not for Publication)
v.
Superior Court, Los Angeles County
(International Creative Management, Inc., r.p.i.)

The Court:

Let a peremptory writ of mandate issue directing the respondent court to vacate the order granting summary adjudication and instead to deny the motion without prejudice to renewal after plaintiffs are allowed to conduct and complete discovery on the relevant issues. The stay, entered February 2001, is lifted.

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Klein, P.J., Kitching, J., Aldrich, J.

DIVISION THREE (Continued)

B140862 Payne (Not for Publication)
v.
City of Los Angeles

The judgment is affirmed. Costs are awarded to respondent the City of Los Angeles.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

B140288 Carter (Not for Publication)
v.
Clarke

The judgment is reversed. Each party to bear their own costs.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

DIVISION FOUR

B143086 In re Calvin Lavender (Not for Publication)
on
Habeas Corpus

The Los Angeles Superior Court is directed to amend the Abstract of Judgment to reflect a total of 2,086 days credits rather than the 1,599 days reflected.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

DIVISION FOUR (Continued)

B136018 Smith (Not for Publication)
v.
City of Santa Monica et al.

The judgment as against appellant, Arthur C. Smith, is reversed. The judgment as against cross-appellant City of Santa Monica is affirmed. Smith shall have his costs on appeal.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

B138865 County of Los Angeles (Not for Publication)
v.
Ortega

The order setting aside the judgment is reversed. Costs are awarded to appellant.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

B132719 Consumer Cause, Inc. (Certified for Publication)
B132723 v.
B134924 Arco Oil & Gas Company et al.
Yeroushalmi
v.
Miramar Sheraton et al.

The judgments in Los Angeles Superior Court case Nos. BC200353, BC196094, and BC200241, are affirmed. Respondents shall have their costs on appeal.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

DIVISION FIVE

B118176 Jonathan Vos Post (Not for Publication)
v.
Palo/Haklar & Associates et al.

The judgment is reversed. Appellant(s) to recover costs.

Armstrong, J.

We concur: Turner, P.J.
Willhite, J. (Assigned)

B135885 Ronald Blagden Anderson Sr.
v.
Clarence E. Markham et al.

Filed order vacating submission order of February 7, 2001. Submission is vacated because Associate Justice Ramona Godoy Perez heard oral argument in this matter. She is unavailable to decide this case. Therefore, oral argument will be reset for the first available date, May 9, 2001, at 9:00 a.m. At that time, the cause will be resubmitted.

B140076 Daniel R. Solin
v.
O'Melveny & Myers, LLP.

Filed order vacating submission order of January 25, 2001. Submission is vacated because Associate Justice Ramona Godoy Perez heard oral argument in this matter. She is unavailable to decide this case. Therefore, oral argument will be reset for the first available date, May 9, 2001, at 1:00 p.m. At that time, the cause will be resubmitted.

B134935 Granitex Construction Company
v.
L.K. Comstock & Company, Inc. et al.

Filed order vacating submission order of February 7, 2001. Submission is vacated because Associate Justice Ramona Godoy Perez heard oral argument in this matter. She is unavailable to decide this case. Therefore, oral argument will be reset for the first available date, June 13, 2001, at 9:00 a.m. At that time, the cause will be resubmitted.

DIVISION SIX

B138135 People
 v.
 Thomas

Petition for rehearing is denied.

B142740 People (Not for Publication)
 v.
 Sweeney

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
 Coffee, J.

B143745 People (Not for Publication)
 v.
 Ewing

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
 Perren, J.

B141893 Embarcadero Municipal (Certified for Publication)
 Improvement District
 v.
 County of Santa Barbara

The judgment is affirmed. Respondents are to recover costs.

Coffee, J.

We concur: Yegan, Acting P.J.
 Perren, J.

DIVISION SEVEN

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The order under review (order revoking probation) is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

B141366 Beckwith, R.N. (Not for Publication)
v.
State of California Franchise Tax Board, et al.

The judgments are affirmed. Each side to bear its own costs on appeal.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

B142702 People (Not for Publication)
v.
Larla M.
In re Karla M., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

DIVISION SEVEN (Continued)

B139578 Cordova (Not for Publication)
v.
Chugay

The judgment is affirmed insofar as it dismisses appellant's claim of a lack of informed consent. The judgment is otherwise reversed on the issue of negligent post-operative care and the cause is remanded for further proceedings consistent with this opinion. Appellant to recover her costs of appeal.

Johnson, Acting P.J.

We concur: Woods, J.
Boland, J. (Assigned)

B144164 People (Not for Publication)
v.
Benoit

The order of dismissal is reversed and the trial court is directed to vacate its order granting defendant's motion to suppress evidence and to enter a new order denying the motion.

Johnson, Acting P.J.

We concur: Woods, J.
Boland, J. (Assigned)

B140164 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Adriana B.

In re Breanna M., a Person Coming Under the Juvenile Court Law.

The orders of the juvenile court are affirmed.

Johnson, J.

We concur: Lillie, P.J.
Woods, J.

DIVISION SEVEN (Continued)

B136865 People (Not for Publication)

V.

David S.

In re David S., a Person Coming Under the Juvenile Court Law.

The order under review is reversed insofar as the court failed to exercise its discretion to determine if the offense of street terrorism was properly a felony or misdemeanor. The cause is remanded for the court to exercise its discretion and for the court to recalculate the maximum theoretical period of confinement if the court determines the offense is a misdemeanor. In all other respects, the order under review is affirmed.

Johnson, J.

We concur: Lillie, P.J.

Woods, J.

B145388 People (Not for Publication)

V.

Gaddis

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.

Woods, J.